

RICK BOUCHER
8TH DISTRICT, VIRGINIA

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ENERGY AND COMMERCE

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COMMUNICATIONS, TECHNOLOGY
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ENERGY AND THE ENVIRONMENT

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Congress of the United States
House of Representatives

August 2, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

I write regarding the Commission's review of the proposed combination of two of our nation's largest media and entertainment companies – Comcast and NBC Universal.

The key to evaluating any merger or joint venture is to ask how it will affect consumers, based on the specific facts of the business combination. Some combinations may benefit consumers by enabling the deployment of new and better products and services. Others may harm consumers by limiting the choices available to them.

With the acquisition of NBC Universal, Comcast will be the largest media company in the nation. It is currently the largest provider of broadband last-mile services and the largest provider of multichannel video distribution services. As further detailed below, I have some concerns about the potential for consumer harm, particularly with respect to the continued availability of a wide array of video programming content to all Americans, regardless of whether they subscribe to the combined company's various services.

After reviewing the matter, I urge the Commission to approve the Comcast-NBC Universal combination and to consider and address the following concerns I have in order to mitigate the potential for consumer harm. I also urge that the Commission approve the proposed combination by December 1, 2010.

1. Programs that are delivered over the air by NBC today and are later made available on the nbc.com Web site for free online viewing should not be permitted to migrate exclusively to TV Everywhere or exclusively to any other online program platform or platforms.

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2. Vertically-integrated cable operators are prohibited under current law from entering into exclusive contracts for the provision of satellite-delivered video programming in which the vertically-integrated cable operator has an attributable interest, unless the Commission determines that the contract is in the public interest. Correspondingly, the combined company should not be permitted to enter into exclusive contracts that restrict the availability of online video programming content to TV Everywhere or any other online platform when the company has an attributable interest in that content.
3. As an analog to concerns about the company's treatment of affiliated video programming, the combined company also should not be permitted to keep its competitors from offering video programming content that is not affiliated with Comcast. Specifically, the combined company should not be allowed to enter into exclusive agreements, nor enforce any existing exclusive agreements, regarding content in which it does not have an attributable interest that is available on TV Everywhere or any other online platform. This prohibition should apply when an exclusive agreement could potentially restrict the availability of the unaffiliated programming on the platforms of other multichannel video programming distributors or on other online platforms.
4. If Comcast, or an entity controlled by or under common control with Comcast, acquires the distribution rights for any high value sporting events, including NFL, NBA, MLB, NHL and NCAA games and PGA golf events, that were, immediately prior to Comcast's acquisition of such rights, distributed via over-the-air broadcasting, the combined company should not distribute such programming exclusively on its pay cable networks or diminish the over-the-air distribution of such high value sporting events to such an extent as to effectively deprive the public of free access to such events. I understand that Comcast, NBC Universal and the NBC affiliates have reached an agreement regarding sports programming, and I request that the Commission incorporate that agreement into its final order.
5. In response to the concern that at one time, the users of Boxee technology were not able to access content distributed by Hulu, the combined company should not prevent any Internet-enabled device from displaying any online programming service in which the combined company has an attributable interest or an agreement, provided that such display does not compromise the functionality, appearance and intellectual property rights of the online programming service.

As of the date of this letter, discussions focused on the potential for passing legislation to assure Internet openness are underway. If those discussions are successful, Congress will soon take up legislation that will apply a uniform set of network openness principles to all broadband providers. I strongly believe that these principles, once adopted, should have universal application to all broadband providers and that it would be highly inappropriate to impose network openness requirements on a single broadband provider prior to the time that rules are applicable across the industry. Accordingly, I urge that the Commission not impose any conditions in its order approving the Comcast-NBC Universal combination regarding network

openness. That consideration is best left to the multiparty negotiations, legislation and Commission proceedings of general applicability.

I appreciate your consideration of these concerns. Addressing them will help ensure that the synergies that the transaction promises confer benefits on consumers while mitigating the potential for consumer harm.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Boucher". The signature is written in a cursive, slightly stylized font.

Rick Boucher
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 29, 2010

The Honorable Rick Boucher
U.S. House of Representatives
2187 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Boucher:

Thank you for your letter regarding the Commission's review of the proposed joint venture between Comcast Corporation and General Electric Company (GE), together with GE's subsidiary, NBC Universal, Inc. I appreciate your interest in this important transaction and value your views. We will make your correspondence part of the record in the proceeding.

I agree that the Commission's analysis of the proposed Comcast-GE transaction must be thorough, fair, and conducted in an expeditious manner. Staff studied carefully the Commission's past practices in reviewing proposed transactions in order to develop procedures that better achieve these objectives. As part of this effort, the Commission's *Public Notice* seeking comment on the applications required that all substantive issues be raised in the initial filings so that the parties would have the opportunity to address the issues as early as possible in the proceeding.

Please be assured that the issues discussed in your letter, including the potential benefits of a combined Comcast-NBC Universal to the American public, will be considered carefully as part of the Commission's independent review of the transaction. Our staff will continue to work diligently as it reviews the record compiled in the proceeding, including all petitions and comments received from the public. We also will continue to coordinate our efforts with those of the Department of Justice as we strive to have a comprehensive and timely review.

I appreciate your interest in this important matter. Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Genachowski", with a stylized flourish at the end.

Julius Genachowski